

1  
2  
3  
4  
5  
6 **UNITED STATES DISTRICT COURT**  
7 **EASTERN DISTRICT OF CALIFORNIA**  
8

9 CANDACE SMITH,

10 Plaintiff,

11 v.

13 CHASE BANK, et al.,

14 Defendants.

Case No. 1:25-cv-00330-SKO

12  
13 **FINDINGS AND RECOMMENDATION**  
**TO DISMISS FOR FAILURE TO STATE**  
**A CLAIM AND LACK OF**  
**JURISDICTION**

14 (Doc. 1)

15 **21-DAY DEADLINE**

16 Clerk to Assign District Judge

17 **I. INTRODUCTION**

18 **A. Background**

19 On March 18, 2025, Plaintiff Candace Smith, proceeding *pro se* and *in forma pauperis*,  
20 filed a civil action. (Doc. 1.)

21 Plaintiff's complaint is now before the Court for screening. The undersigned finds that  
22 Plaintiff has not stated a cognizable claim or a basis for federal jurisdiction and will recommend  
23 that this action be dismissed without prejudice and without leave to amend for failure to state a  
24 claim upon which relief may be granted and lack of jurisdiction.

25 **B. Screening Requirement and Standard**

26 In cases where the plaintiff is proceeding *in forma pauperis*, the Court is required to screen  
27 each case and shall dismiss the case at any time if the Court determines the allegation of poverty is  
28 untrue, or the action is frivolous or malicious, fails to state a claim upon which relief may be

1 granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C.  
 2 § 1915(e)(2). If the Court determines that a complaint fails to state a claim, leave to amend may  
 3 be granted to the extent that the deficiencies of the complaint can be cured by amendment. *Lopez*  
 4 *v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (*en banc*).

5 The Court's screening of a complaint under 28 U.S.C. § 1915(e)(2) is governed by the  
 6 following standards. A complaint may be dismissed as a matter of law for failure to state a claim  
 7 for two reasons: (1) lack of a cognizable legal theory; or (2) insufficient facts under a cognizable  
 8 legal theory. *See Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990). A  
 9 plaintiff must allege a minimum factual and legal basis for each claim that is sufficient to give  
 10 each defendant fair notice of what the plaintiff's claims are and the grounds upon which they rest.  
 11 *See, e.g., Brazil v. U.S. Dep't of the Navy*, 66 F.3d 193, 199 (9th Cir. 1995); *McKeever v. Block*,  
 12 932 F.2d 795, 798 (9th Cir. 1991).

13 **C. Summary of the Complaint**

14 Plaintiff prepared her complaint using the general complaint form provided by this Court.  
 15 The complaint lists the following defendants: Chase Bank, Wells Fargo, Bank of America,  
 16 Experian, "transunion," and "Eqifax." (Doc. 1 at 3.) In the section titled "Basis for Jurisdiction,"  
 17 "Federal question" is selected. (*Id.* at 3.) Plaintiff states that the basis for federal question  
 18 jurisdiction is "Intentional setups by corrupt group" and "vilotion [sic] of civil rights and stolen  
 19 legacy." (*Id.* at 4.)

20 Plaintiff states that she and Defendant Chase Bank are citizens of California in the section  
 21 titled "If the Basis for Jurisdiction is Diversity of Citizenship." (*Id.* at 4.) The "Amount in  
 22 Controversy" is listed as "undisclosed money return stolen & setup inconveniences." (*Id.* at 5.)

23 The "Statement of Claim" section of the complaint reads:

24 Vilation [sic] of banking laws and cival [sic] rights. Terrible Racteering [sic]  
 25 Influence Group. Stolen date information & setups. Group connected to Urber  
 26 [sic] eats. Drugging, attempted rape corrinated [sic] activities based on card  
 usage. Access criminals to personal data & card usage whereabouts data breach,  
 invasion [sic], stalking, harassments, & attempted murders.

27 Shut down accounts purposely after drugging in hotels w/o Friends and mishaps.  
 28 Is w/c corrupt influenced groups.

1 (Doc. 1 at 5.) As for the relief sought, Plaintiff writes, “punitive exemplary damages undisclosed  
 2 amount.” (*Id.* at 6.)

3 The Civil Cover Sheet lists the nature of suit as “Racketeer Influenced and Corrupt  
 4 Organizations,” and the cause of action is described as “corrupt group terrorists attack & robbery’s  
 5 [sic]” and “vilation [sic] of civil rights .” (Doc. 1-1.)

6 **II. DISCUSSION**

7 **A. Plaintiff’s Complaint Does Not Comply with Rule 8(a)**

8 Federal Rule of Civil Procedure 8(a)’s “simplified pleading standard applies to all civil  
 9 actions, with limited exceptions.” *Swierkiewicz v. Sorema N. A.*, 534 U.S. 506, 513 (2002). A  
 10 complaint must contain “a short and plain statement of the claim showing that the pleader is  
 11 entitled to relief.” Fed. R. Civ. P. 8(a)(2). “Such a statement must simply give the defendant fair  
 12 notice of what the plaintiff’s claim is and the grounds upon which it rests.” *Swierkiewicz*, 534  
 13 U.S. at 512 (internal quotation marks and citation omitted).

14 Detailed factual allegations are not required, but “[t]hreadbare recitals of the elements of a  
 15 cause of action, supported by mere conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556  
 16 U.S. 662, 678 (2009) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). A plaintiff  
 17 must set forth “sufficient factual matter, accepted as true, to ‘state a claim that is plausible on its  
 18 face.’” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 570). Factual allegations are  
 19 accepted as true, but legal conclusions are not. *Iqbal*, 556 U.S. at 678 (citing *Twombly*, 550 U.S.  
 20 at 555).

21 The Court construes pleadings of *pro se* litigants liberally and affords them the benefit of  
 22 any doubt. *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010) (citation omitted). However, “the  
 23 liberal pleading standard . . . applies only to a plaintiff’s factual allegations,” not their legal  
 24 theories. *Neitze v. Williams*, 490 U.S. 319, 330 n.9 (1989). Furthermore, “a liberal interpretation  
 25 of a civil rights complaint may not supply essential elements of the claim that were not initially  
 26 pled,” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251, 1257 (9th Cir. 1997) (internal  
 27 quotation marks and citation omitted), and courts “are not required to indulge unwarranted  
 28 inferences,” *Doe I v. Wal-Mart Stores, Inc.*, 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation

1 marks and citation omitted). The “sheer possibility that a defendant has acted unlawfully” is not  
2 sufficient to state a cognizable claim, and “facts that are merely consistent with a defendant’s  
3 liability” fall short. *Iqbal*, 556 U.S. at 678 (internal quotation marks and citation omitted).

4 Here, Plaintiff’s complaint is not a short and plain statement of her claims. Plaintiff sets  
5 forth no facts in her complaint to support her allegations, exclusively relying on conclusory  
6 statements, and it is unclear what Plaintiff is alleging and against whom. Accordingly, the Court  
7 finds that Plaintiff’s complaint fails to comply with Rule 8(a).

8 **B. Plaintiff Has Not Pleaded Any Cognizable Basis for Federal Court Jurisdiction**

9 **1. Legal Standard**

10 Federal courts are courts of limited jurisdiction and their power to adjudicate is limited to  
11 that granted by Congress. *U.S. v. Sumner*, 226 F.3d 1005, 1009 (9th Cir. 2000). Federal courts  
12 are presumptively without jurisdiction over civil actions, and the burden to establish the contrary  
13 rests upon the party asserting jurisdiction. *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377  
14 (1994). Generally, there are two bases for subject matter jurisdiction: federal question jurisdiction  
15 and diversity jurisdiction. 28 U.S.C. §§ 1331, 1332.

16 Pursuant to 28 U.S.C. § 1331, federal district courts have federal question jurisdiction over  
17 “all civil actions arising under the Constitution, laws, or treaties of the United States.” “A case  
18 ‘arises under’ federal law either where federal law creates the cause of action or ‘where the  
19 vindication of a right under state law necessarily turn[s] on some construction of federal law.’”  
20 *Republican Party of Guam v. Gutierrez*, 277 F.3d 1086, 1088–89 (9th Cir. 2002) (quoting  
21 *Franchise Tax Bd. v. Construction Laborers Vacation Trust*, 463 U.S. 1, 8–9 (1983)). The  
22 presence or absence of federal question jurisdiction is governed by the “well-pleaded complaint  
23 rule.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). Under this rule, “federal  
24 jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly  
25 pleaded complaint.” *Id.*

26 Pursuant to 28 U.S.C. § 1332, district courts have diversity jurisdiction only over “all civil  
27 actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest  
28 and costs,” and the action is between: (1) “citizens of different States;” (2) “citizens of a State and

1 citizens or subjects of a foreign state;” (3) “citizens of different States and in which citizens or  
2 subjects of a foreign state are additional parties;” and (4) “a foreign state . . . as plaintiff and  
3 citizens of a State or of different States.”

4        This Court has an independent duty to consider its own subject matter jurisdiction, whether  
5 or not the issue is raised by the parties and must dismiss an action over which it lacks jurisdiction.  
6 Fed. R. Civ. P. 12(h)(3); *see also Cal. Diversified Promotions, Inc. v. Musick*, 505 F.2d 278, 280  
7 (9th Cir. 1974) (“It has long been held that a judge can dismiss *sua sponte* for lack of  
8 jurisdiction.”). The burden is on the federal plaintiff to allege facts establishing that jurisdiction  
9 exists to hear their claim(s). *See Thompson v. McCombe*, 99 F.3d 352, 353 (9th Cir. 1996) (“A  
10 party invoking the federal court’s jurisdiction has the burden of proving the actual existence of  
11 subject matter jurisdiction.”).

12        **2. Analysis**

13        To the extent Plaintiff attempts to allege this Court has federal question jurisdiction,  
14 Plaintiff fails to specify a federal statute or constitutional doctrine that gives rise to her claims.  
15 Plaintiff seeks to assert a claim for “violation of banking laws and civil rights” (Doc. 1 at 5; Doc.  
16 1-1) but does not identify what laws or rights have been allegedly violated (and by whom).  
17 Further, 42 U.S.C. § 1983 (“Section 1983”) is the “mechanism for plaintiffs to vindicate their  
18 federal civil rights through federal law.” *Hogan v. Robinson*, No. CIV-F-03-6408-AWI-LJO,  
19 2005 WL 8176432, at \*8 (E.D. Cal. Jan. 31, 2005). To state a claim under Section 1983, a  
20 plaintiff must allege that the defendant (1) acted under color of state law, and (2) deprived them of  
21 rights secured by the Constitution or federal law. *Long v. County of Los Angeles*, 442 F.3d 1178,  
22 1185 (9th Cir. 2006); *see also Marsh v. Cnty. of San Diego*, 680 F.3d 1148, 1158 (9th Cir. 2012)  
23 (discussing the “under color of state law” requirement).

24        Regarding the first element, private parties are not generally acting under color of state law  
25 for the purposes of Section 1983. *Price v. Hawaii*, 939 F.2d 702, 707–08 (9th Cir. 1991)  
26 (“Careful adherence to the ‘state action’ requirement preserves an area of individual freedom by  
27 limiting the reach of federal law and federal judicial power. It also avoids imposing on the State,  
28 its agencies or officials, responsibility for conduct for which they cannot fairly be blamed.”)

1 (quoting *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 936–37 (1982)). There exist, however, some  
 2 circumstances in which the actions of a private actor may render that actor liable under section  
 3 1983. *Villegas v. Gilroy Garlic Festival Ass'n*, 541 F.3d 950, 954 (9th Cir. 2008) (*en banc*).  
 4 Specifically, a plaintiff must show that “the conduct allegedly causing the deprivation of a federal  
 5 right [was] fairly attributable to the State.” *Lugar*, 457 U.S. at 937. Here, the named defendants  
 6 are all private parties, and Plaintiff fails to allege facts to support a finding that they have acted  
 7 such that their conduct is “fairly attributable” to the government. Accordingly, Plaintiff has failed  
 8 to state a cognizable Section 1983 claim.

9 To the extent Plaintiff attempts to bring a claim for “attempted murder” or “robbery” (Doc.  
 10 1 at 5; Doc. 1-1), “such criminal claims may not be pursued in a civil lawsuit.” *Grimes v. A1-Auto*  
 11 *Care*, No. 21-cv-02093-LL-BLM, 2022 WL 959273, at \*3 (S.D. Cal. Mar. 30, 2022). *See United*  
 12 *States v. Duran*, 41 F.3d 540, 544 (9th Cir. 1994) (“If the prosecutor has probable cause to believe  
 13 a defendant committed a crime, the decision of whether to prosecute and the charges to be filed  
 14 rests with the prosecutor.”). If Plaintiff intends to pursue a Racketeering Influenced and Corrupt  
 15 Organizations (RICO) cause of action against any defendant (Doc. 1-1), she fails to include any  
 16 factual support for such a claim.<sup>1</sup> Plaintiff does not allege which prohibited activities she is  
 17 contending were violated by the acts alleged in the complaint. Nor does the complaint allege a  
 18 pattern of racketeering activity by any defendant. In sum, Plaintiff has not articulated any  
 19 cognizable federal claim over which this Court may assert federal question jurisdiction under  
 20 U.S.C. § 1331.

21 Although not alleged as a basis for jurisdiction in the complaint, the undersigned further  
 22 determines whether there is complete diversity between the parties to invoke jurisdiction to hear  
 23 any state law claims. Plaintiff pleads in her complaint that both she and Chase Bank are citizens  
 24 of California. (See Doc. 1 at 4.) Since Plaintiff alleges that both she and at least one defendant are  
 25 citizens of California, the parties are not diverse, and diversity jurisdiction under 28 U.S.C. § 1332  
 26 does not exist in this action. *Garcia-Cardenas v. Immigration Legal Servs.*, APC, No. 1:13-CV-

27  
 28 <sup>1</sup> To state a civil RICO claim, a plaintiff must sufficiently allege “(1) conduct (2) of an enterprise (3) through a pattern  
 (4) of racketeering activity (5) causing injury to plaintiff’s business or property.” *Rezner v. Bayerische Hypo-Und  
 Vereinsbank AG*, 630 F.3d 866, 873 (9th Cir. 2010).

1 01065-AWI, 2013 WL 4542223, at \*2 (E.D. Cal. Aug. 27, 2013) (citing *Strawbridge v. Curtiss*, 7  
 2 U.S. 267 (1806) (no plaintiff can be a citizen of the same state as any of the defendants)).

3 Because Plaintiff has not established the Court's subject matter jurisdiction on diversity or  
 4 federal question grounds, this Court does not have subject matter jurisdiction over this action.

5 **C. Leave to Amend Would Be Futile**

6 When dismissing a complaint, the Ninth Circuit has stated that "leave to amend should be  
 7 granted unless the district court determines that the pleading could not possibly be cured by the  
 8 allegation of other facts." *Bly-Magee v. California*, 236 F.3d 1014, 1019 (9th Cir. 2001) (internal  
 9 quotation marks omitted); *Chang v. Chen*, 80 F.3d 1293, 1296 (9th Cir. 1996). If it is clear after  
 10 careful consideration that a complaint cannot be cured by amendment, the court may dismiss  
 11 without leave to amend. *See Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995); *see also*  
 12 *Hartmann v. CDCR*, 707 F.3d 1114, 1130 (9th Cir. 2013); *accord Lopez*, 203 F.3d at 1129  
 13 ("Courts are not required to grant leave to amend if a complaint lacks merit entirely.").

14 The undersigned concludes that granting Plaintiff leave to amend in this action would be  
 15 futile considering Plaintiff's extensive history of deficient filings and repeated admonitions from  
 16 the Court. Indeed, from a review of the Court's electronic filing system it appears that, within the  
 17 twelve-month period immediately preceding the filing of the current complaint, Plaintiff has filed  
 18 16 cases in this District.<sup>2</sup> Of these cases, 9 have been screened by this heavily impacted Court and  
 19 have advised Plaintiff of the same pleading requirements repeated in this order:

- 20 • *Smith v. Davis*, No. 1:24-cv-00476-JLT-EPG (filed April 22, 2024; dismissed  
 21 January 7, 2025, for lack of subject matter jurisdiction);
- 22 • *Smith v. Ayodale*, No. 1:24-cv-00538-JLT-BAM (filed May 6, 2024; dismissed  
 23 August 8, 2024, for lack of subject matter jurisdiction);
- 24 • *Smith v. Chick-Fil-A*, No. 1:24-cv-00814-JLT-BAM (filed July 15, 2024; dismissed  
 25 November 27, 2024, for failure to state a claim upon which relief can be granted  
 26 and for failure to comply with Court's orders);

27  
 28 <sup>2</sup> Judicial notice may be taken of court records. *Valerio v. Boise Cascade Corp.*, 80 F.R.D. 626, 634 n.1 (N.D. Cal.  
 1978); *see also Gerritsen v. Warner Bros. Entm't Inc.*, 112 F. Supp. 3d 1011, 1034 (C.D. Cal. Jan. 30, 2015) ("It is  
 well established that a court may take judicial notice of its own files and records . . .").

- *Smith v. Ayodele*, Case No. 24-cv-01100-JLT-SKO, filed September 6, 2024; dismissed December 23, 2024, for lack of subject matter jurisdiction);
- *Smith v. Dyer*, No. 1:24-cv-01288-JLT-EPG (filed October 22, 2024; dismissed January 8, 2025, for failure to comply with Rule 8 and for lack of subject matter jurisdiction);
- *Smith v. University Inn Hotel*, Case No. 24-cv-01316-KES-EPG (filed October 28, 2024; dismissed February 3, 2025, for failure to comply with Rule 8 and lack of subject matter jurisdiction);
- *Smith v. Chick-Fil-A*, No. 1:24-cv-01471-JLT-HBK (filed December 4, 2024; dismissed March 6, 2025, for lack of subject matter jurisdiction);
- *Smith v. George Brown Fitness*, No. 1:24-cv-01561-JLT-SAB (filed December 18, 2024; dismissed February 14, 2025, for lack of subject matter jurisdiction); and
- *Smith v. Spicy Mayo Restaurant*, Case No. 25-cv-00159-KES-HBK, filed February 7, 2025; pending dismissal for failure to comply with Rule 8 and lack of subject matter jurisdiction).

At this juncture, Plaintiff has been made aware repeatedly that her complaint must contain sufficient facts showing she is entitled to relief, that each defendant's involvement must be sufficiently alleged, and that Plaintiff must establish that this Court has subject matter jurisdiction over the action.

The Court finds that amendment of the complaint would be futile because Plaintiff fails to specify a federal statute or constitutional doctrine that gives rise to her claims and Plaintiff and all defendants do not have diverse citizenship, based on the complaint. Accordingly, the Court recommends that the complaint be dismissed without leave to amend.

### III. CONCLUSION AND RECOMMENDATION

Based on the foregoing, it is HEREBY RECOMMENDED that this action be dismissed without prejudice and without leave to amend. The Clerk of Court is DIRECTED to assign a District Judge to this action.

These Findings and Recommendation will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1)(B). **Within twenty-one (21) days after being served with these Findings and Recommendation**, any party may file written objections with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendation.” The parties are advised that failure to file objections within the specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: March 31, 2025

*/s/ Sheila K. Oberto*

UNITED STATES MAGISTRATE JUDGE